

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RICK SPENCER KUHN and JOACHIM  
PERRY, as spouse and partner,

Plaintiffs,

v.

JUSTIN SLETE and "JANE DOE" SLETE,  
individually and as husband and spouse and the  
marital community comprised thereof;

JOHN KORSMO CONSTRUCTION INC., d/b/a  
KORSMO CONSTRUCTION, a Washington  
Corporation; and

EMERALD CITY MOVING & STORAGE LLC,  
a foreign limited liability company; and

UNITED STATES OF AMERICA,

Defendants.

NO:

COMPLAINT FOR PERSONAL  
INJURIES AND DAMAGES  
and JURY DEMAND

COME NOW Plaintiffs RICK SPENCER KUHN and JAOCHIM PERRY, by and through their  
attorneys of record at Hardwick & Pendergast, P.S., and for a Complaint against Defendants JUSTIN  
SLETE, JOHN KORSMO CONSTRUCTION INC., d/b/a KORSMO CONSTRUCTION, a Washington

Corporation; and EMERALD CITY MOVING & STORAGE LLC, a foreign limited liability company; and the UNITED STATES OF AMERICA; Plaintiffs allege as follows:

**I. PARTIES, JURISDICTION AND VENUE**

1.1 Plaintiffs **Rick Spencer Kuhn** and **Joachim Perry**, at all times relevant to this action, are and were married residents of Pierce County, Washington.

1.2 Defendant **Justin Slete** at all times relevant to this action was a married resident of Pierce County, Washington and working within the scope of his employment with Defendant Emerald City Moving & Storage LLC.

1.3 Defendant **John Korsmo Construction Inc d/b/a Korsmo Construction**, hereafter "KORSMO CONSTRUCTION", at all times relevant is and was a Washington Corporation, and did transact business or have an office for the transaction of business at relevant times in Pierce County, Washington.

1.4 Defendant **Emerald City Moving & Storage LLC**, at all times relevant is and was a foreign limited liability company licensed to do transact business in the State of Washington and transacted business at relevant times in Pierce County, Washington.

1.5 Defendant **United States of America** is sued for Plaintiffs personal injuries caused by the negligent or wrongful acts or omissions of its employees. Those employees were acting within the scope of their office or employment under circumstances where the United States, if a private person, would be liable to Plaintiff in accordance with the laws of the State of Washington. See 28 U.S.C. § 1346(b).

1.6 Defendants are jointly and severally liable to Plaintiffs for the damages suffered and incurred.

1.7 This court has original jurisdiction pursuant to 28 U.S.C. § 1346(b).

1.8 Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because the Defendant United States of America resides in this district and a substantial part of the events giving rise to the claim took place in this district.

1.9 The acts or omissions giving rise to the claim occurred in the Western District of Washington. Venue is therefore proper under 28 U.S.C. § 1402(b).

1.10 Plaintiff Rick Kuhn has exhausted his claims by filing the required forms with the Defendant United States of America and having his claims denied. On or about January 4, 2021, Plaintiff caused to be presented a claim for injury under the Federal Tort Claims Act to the United States, which was duly received and acknowledged by the United States Department of the National Park Service, Office of the Judge Advocate General, on January 11, 2021. On April 28, 2021, Defendant United States of America denied the claim.

1.11 The United States of America may be served with process in accordance with Rule 4(1) of the Federal Rules of Civil Procedure by serving a copy of the Summons and of the Complaint on the US Attorney, by certified mail, return receipt requested at the office, United States Attorney's Office, Western District, 1201 Pacific Avenue, Suite 700, Tacoma, WA, to the attention of the Civil Process Clerk, and by serving a copy of the Summons and Complaint on the Attorney General of the United States, by certified mail, return receipt requested, at the U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, D.C. 20530-0001, to the attention of the Civil Process Clerk.

## **II. FACTS OF LOSS**

1           2.1     Defendant United States of America owns, operates and manages Mt. Rainier National  
2 Park. The management of the park is done by the National Park Service, an agency of Defendant United  
3 States of America.

4           2.2.    Defendant UNITED STATES OF AMERICA entered into a contract with Defendant  
5 KORSMO CONSTRUCTION to remodel the Paradise Inn Lodge in Mt. Rainier National Park. This  
6 project was called the "Rehabilitate Paradise Inn Annex and Connection Snowbridge" (MORA152787).  
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8           2.3     Defendant UNITED STATES OF AMERICA authorized Defendant KORSMO  
9 CONSTRUCTION and its subcontractors hired by Defendant KORSMO CONSTRUCTION to have  
10 access to the Paradise Inn Lodge in in Mt. Rainier National Park for the duration of the remodeling  
11 project.

12           2.4     At approximately 9:00 AM, on January 28, 2019, Plaintiff RICK SPENCER KUHN  
13 drove a 2016 Peterbilt propane tanker truck (Washington License C12066E) "Peterbilt" owned by his  
14 employer, Pacific Coast Energy, to Paradise at Mt. Rainier National Park. Plaintiff RICK SPENCER  
15 was permitted to drive on the road to Paradise by Defendant UNITED STATES OF AMERICA.  
16 Plaintiff RICK SPENCER KUHN was not given any warning of the road conditions by Defendant  
17 UNITED STATES OF AMERICA.  
18

19           2.5     Plaintiff RICK SPENCER KUHN operated said Peterbilt to Paradise at Mt. Rainier  
20 National Park on the aforementioned date and time to deliver propane fuel for the "Rehabilitate Paradise  
21 Inn Annex and Connection Snowbridge" (MORA152787) construction worksite.  
22

23           2.6     At approximately 9:00 AM, on January 28, 2019, Defendant JUSTIN SLETE was  
24 operating a Freightliner M2 2012 owned by their employer Defendant EMERALD CITY MOVING &  
25 STORAGE LLC, to Paradise at Mt. Rainier National Park.

1           2.7    As Plaintiff RICK SPENCER KUHN, drove into Paradise in the Peterbilt he was  
2 operating, he observed a freightliner moving truck registered to Defendant EMERALD CITY MOVING  
3 & STORAGE LLC on the east side of the Paradise Upper Parking Area.

4           2.8    Plaintiff RICK SPENCER KUHN parked the vehicle he was operating to install tire  
5 chains for the hazardous road conditions.

6           2.9    Defendant JUSTIN SLETE exited the vehicle he was operating to install tire chains.

7  
8           2.10   As Plaintiff RICK SPENCER KUHN was standing behind the rear tire of his vehicle in  
9 the process of installing the tire chains on his vehicle, the Emerald City Moving & Storage LLC vehicle  
10 lost traction and slid backwards, crushing Plaintiff's upper body and torso between both trucks.

11           2.11   As a result of being crushed between both trucks, Plaintiff RICK SPENCER KUHN  
12 suffered severe personal injuries.

13  
14           2.12   Defendant EMERALD CITY MOVING & STORAGE LLC was operating under the  
15 direction and control of Defendant KORSMO CONSTRUCTION.

16           2.13   Defendant KORSMO CONSTRUCTION and EMERALD CITY & STORAGE LLC  
17 were operating under the direction and control of Defendant UNITED STATES OF AMERICA.

18  
19           2.14   Defendant UNITED STATES OF AMERICA permitted Defendant EMERALD CITY  
20 MOVING and its employees, which included Defendant JUSTIN SLETE to enter the national park and  
21 drive on the roads.

22           2.15   Defendant UNITED STATES OF AMERICA's control, management and supervision of  
23 the project named "Rehabilitate Paradise Inn Annex and Connection Snowbridge" included snow  
24 plowing and ice removal and/or ice remediation services for the project "Rehabilitate Paradise Inn  
25

Annex and Connection Snowbridge” location and including the roadways Defendant KORSMO CONSTRUCTION and their subcontractors would need to travel to access the project “Rehabilitate Paradise Inn Annex and Connection Snowbridge” location.

### III. LIABILITY OF KORSMO CONSTRUCTION

3.1 Through employees and/or agents Defendant KORSMO CONSTRUCTION, knew, or should have known, that the condition of the roads in and around Paradise were dangerous and unsafe for vehicle travel. Defendant failed to maintain the condition of the road for the safety of its subcontractors. Defendant is jointly and severally liable to plaintiffs for the damages suffered and incurred.

3.2 Defendant KORSMO CONSTRUCTION, is liable for the action(s) of its employee(s) under the doctrine of Respondeat Superior and are therefore liable for the injuries and damages suffered by Plaintiffs as direct result of the incident referred to above. Defendant is also liable for failing to warn or make safe such conditions that caused Plaintiff RICK SPENCER KUHN to suffer personal injuries.

3.3 Defendant breached various duties of care owed to Plaintiff, RICK SPENCER KUHN, including but not limited to:

- a. Failing to exercise reasonable or due care and caution;
- b. Failing to discover a dangerous condition;
- c. Failing to warn and/or protect Plaintiff from reasonably foreseeable dangers;
- d. Failing to properly maintain the roadway;
- e. Failing to provide proper training and/or supervision to its employees;

- f. Failing to implement safe measures by which to ensure the roadway from Longmire to Paradise Annex Inn was safe for vehicle travel;
- g. Failing to keep a proper lookout; and
- h. Failing to thoroughly vet their drivers, instruct them on safety, and enforce the rules and regulations of the road applicable to commercial drive.

3.4 Defendant's negligence was a proximate cause of past and future economic damages suffered by the plaintiffs in amounts to be proven at the time of trial.

#### IV. LIABILITY OF EMERALD CITY MOVING AND STORAGE

4.1 Defendant EMERALD CITY MOVING AND STORAGE knew, or should have known, to train their employees and/or agents to chock or block their vehicles to prevent harm or damage to persons and/or property.

4.2 Defendant EMERALD CITY MOVING AND STORAGE failed to properly train their employees and/or agents how safety operating vehicles on icy roadways. Defendant is jointly and severally liable to plaintiffs for the damages suffered and incurred.

4.3 Defendant EMERALD CITY MOVING AND STORAGE is liable for the action(s) of its employee(s) under the doctrine of Respondeat Superior and are therefore liable for the injuries and damages suffered by Plaintiffs as direct result of the incident referred to above.

4.4 Defendant EMERALD CITY MOVING STORAGE breached various duties of care owed to Plaintiff RICK SPENCER KUHN, including but not limited to:

- a. Failing to exercise reasonable or due care and caution;

- b. Failing to warn and/or protect Plaintiff from reasonably foreseeable dangers;
- c. Failing to provide proper training and/or supervision to its employees;
- d. Failing to implement safe measures by which to chock or otherwise block
- e. Failing to provide proper training and/or supervision to its employees;
- f. Failing to implement safe measures by which to ensure the roadway from Longmire to Paradise was safe for vehicle travel;
- g. Failing to keep a proper lookout; and
- h. Failing to thoroughly vet their drivers, instruct them on safety, and their vehicle's tires to prevent damage to persons and property.

4.5 Defendant's negligence was a proximate cause of past and future economic damages suffered by Plaintiffs in amounts to be proven at the time of trial.

## V. LIABILITY OF UNITED STATES OF AMERICA

5.1 Through employees and/or agents Defendant UNITED STATES OF AMERICA, knew, or should have known, that the condition of the roads in and around Paradise were dangerous and unsafe for vehicle travel. Defendant failed to maintain the condition of the road for the safety of its contractors, subcontractors, and drivers entering Mt. Rainier National Park. Defendant is jointly and severally liable to plaintiffs for the damages suffered and incurred.

5.2 Defendant UNITED STATES OF AMERICA, is liable for the action(s) of its employee(s) under the doctrine of Respondeat Superior and are therefore liable for the injuries and damages suffered by Plaintiffs as direct result of the incident referred to above. Defendant is also liable



1 for failing to warn or make safe such conditions that caused Plaintiff RICK SPENCER KUHN to suffer  
2 personal injuries.

3 5.3 Defendant breached various duties of care owed to Plaintiff, RICK SPENCER KUHN,  
4 including but not limited to:

- 5 a. Failing to exercise reasonable or due care and caution;
- 6 b. Failing to discover a dangerous condition;
- 7 c. Failing to warn and/or protect Plaintiff from reasonably foreseeable  
8 dangers;
- 9 d. Failing to properly maintain the roadway;
- 10 e. Failing to provide proper training and/or supervision to its employees;
- 11 f. Failing to implement safe measures by which to ensure the roadway from  
12 Longmire to Paradise Annex Inn was safe for vehicle travel;
- 13 g. Failing to keep a proper lookout; and
- 14 h. Failing to thoroughly vet their drivers, instruct them on safety, and enforce  
15 the rules and regulations of the road applicable to commercial drive.

16  
17 5.4 Defendant's negligence was a proximate cause of past and future economic damages  
18 suffered by the plaintiffs in amounts to be proven at the time of trial.

## 19 VI. DAMAGES

20 6.1 Plaintiffs re-allege paragraphs 1.1-2.9 above and incorporate them by reference herein.

21 6.2 As a direct and proximate result of Defendants' breach of its various duty(ies), Plaintiff  
22 RICK SPENCER KUHN was injured, suffered and continues to suffer physical disability and pain,

1 emotional trauma, an impaired capacity and ability to enjoy life, medical expenses, other out-of-pocket  
2 expenses, and other damages past, present, and future, all in amounts to be proven at the time of trial.  
3 Any pre-existing medical conditions of Plaintiff RICK SPENCER KUHN were aggravated, accelerated,  
4 and/or worsened as a result of Defendants' negligence.

5 6.3 As a direct result of Defendants' negligence, Plaintiff JOACHIM PERRY has suffered  
6 and continues to suffer loss of Plaintiff RICK SPENCER KUHN's love, affection, care, services,  
7 companionship, society, and consortium.

8 **VII. PRAYER FOR RELIEF**

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10 WHEREFORE, Plaintiffs pray for relief as follows:

11 7.1 For judgment against Defendants, for compensation for all injuries and damages, past,  
12 present and future, in amounts to be proven at the time of trial;


13 7.2 For prejudgment interest at the statutory rate on all items of special damages, including,  
14 without limitation, expenses of past and future medical care and treatment(s), and/or other out-of-pocket  
15 expenses;

16  
17 7.3 For an award of attorneys' fees and costs incurred herein; and

18 7.4 For such other and further relief as the court deems just and equitable under the  
19 circumstances.

20 DATED this 8<sup>th</sup> day of July, 2021.

21  
22 HARDWICK & PENDERGAST, P.S.

23  
24   
25 Shane M. Moriarty, WSBA #46938



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